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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,007	01/21/2004	Asif Hossain	555255012688	4523
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MOFFAT & CO 427 LAURIER AVEUE W., SUITE 1200 OTTAWA, ON K1R 7Y2 CANADA			EXAMINER EKONG, EMEM	
			ART UNIT	PAPER NUMBER
			2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/762,007

Applicant(s)

HOSSAIN ET AL.

Examiner

EMEM EKONG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/18/2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. US 2002/0107032 A1 to Michael K. Agness et al. (Agness) in view of US Patent No. 6,690,940 B1 to Brown et al. (Brown).

Regarding claim 1, Agness discloses a method of enhancing the probability of a successful emergency call completion on a mobile station in a network (pars. 0001-0010, and 0074), comprising the steps of: during an emergency call attempt, monitoring whether the mobile station has received a non-voice service request from the network and, if yes, ignoring said non-voice service request (pars. 0010-0011, 0019-0022, and 0073).

However, Agness fails to disclose blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request.

Brown discloses blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request (col. 5 line 65-col. 6 line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Agness, by blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request as disclosed by Brown for the purpose of blocking unwanted call during emergency communication.

6. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Agness in view of Brown, and further in view of Yarwood.

Regarding claims 3, and 6, the combination of Agness and Brown discloses the method of claim 1, however, the combination fails to disclose further comprising the steps of: at the start of an emergency call attempt, checking whether the mobile station is already communicating with the network, and if yes, ending the communication with the network, and wherein the mobile station is allowed to acquire any network regardless of whether the network is preferred. In a similar endeavor, Yarwood discloses at the start of an emergency call attempt, checking whether the mobile station is already communicating with the network, and if yes, ending the communication with the network, and wherein the mobile station is allowed to acquire any network regardless of whether the network is preferred (page 8 lines 1-12, page 8 line 31- page 9 line 7, and page 12 lines 6-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination such that at the start of an emergency call attempt, checking whether the mobile station is already communicating with the network, and if yes, ending the communication with the network, and wherein the mobile station is allowed to acquire any network regardless of whether the network is preferred as disclosed by Yarwood for the purpose of prioritizing communication, and ending an unimportant communication for a more important communication.

Regarding claims 4 and 5, the combination of Agness, Brown and Yarwood discloses the method of claim 3, further comprising the steps of: if said communication with the network is ended, attempting to acquire a network for the emergency call attempt, and wherein said step of attempting to acquire a network includes periodically attempting to reacquire said network that communication was ended with (Yarwood, page 8 lines 1-18).

Regarding claim 7, the combination of Agness, Brown and Yarwood discloses the method of claim 6, wherein said mobile station can acquire a network even if a subscriber identity module or a removable user identity module is not present (Yarwood, page 9 lines 3-24).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Agness in view of Brown, and further in view of US Publication No. 2002/0077075 A1 to Ikonen et

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al. (Ikonen).

Regarding claim 8, the combination of Agness and Brown discloses the method of claim 1, however, the combination fails to disclose further comprising the steps of: sending an emergency call request to the network; checking whether the emergency call request was successful; if said emergency call request was unsuccessful, checking whether the user aborted the emergency call request; and if said user did not abort said emergency call request, attempting to acquire a new system.

Ikonen discloses sending an emergency call request to the network; checking whether the emergency call request was successful; if said emergency call request was unsuccessful, checking whether the user aborted the emergency call request; and if said user did not abort said emergency call request, attempting to acquire a new system (see figure 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination by sending an emergency call request to the network; checking whether the emergency call request was successful; if said emergency call request was unsuccessful, checking whether the user aborted the emergency call request; and if said user did not abort said emergency call request, attempting to acquire a new system as disclosed by Ikonen for the purpose of ensuring a successful communication of emergency message.

8. Claims 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U S Publication No. 2004/0032932 A1 to Kucmerowski et al. (Kucmerowski) in view of Brown.

Regarding claim 9, Kucmerowski discloses a method of enhancing the probability of a successful emergency callback to a mobile station in a network from an emergency service centre (pars. 3-4), the method comprising the steps of: during a callback period, monitoring whether the mobile station has received a service request from the network and, if yes, ignoring said service request if said service request is a non-voice service request that is anything but a position location service request (see figure 4 step 414-430, and pars. 23-24),

However, Kucmerowski fails to disclose blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request.

Brown discloses blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request (col. 5 line 65-col. 6 line 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Kucmerowski, by blocking sending of an acknowledgment message generated by the mobile station based on said non-voice service request as disclosed by Brown for the purpose of blocking unwanted call during emergency communication.

Regarding claim 11, the combination of Kucmerowski and Brown discloses the method of claim 9, wherein said method further includes the steps of: setting up a call

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for a voice service request or a non-voice position location service request; ending said call, checking whether a callback timer has expired, and if so entering a regular mode (Kucmerowski, see figure 4 steps 414-420).

9. Claims 12, 13, and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0203573 A1 to Aerrabotu et al. (Aerrabotu) in view of Ikonen.

Regarding claims 12, Aerrabotu discloses a method of enhancing the probability of a successful emergency callback to a mobile station in a network from an emergency service centre (see abstract, and par 9 lines 7-11), the method comprising the steps of: during a callback period, monitoring whether a user attempts to initiate a non-voice service request that is anything but an information service request, and if yes ignoring said non-voice service request (see figure 2 steps 206-214, and par.15, a user operating in a limited service mode is only allowed a communication with a service center that includes the transmission of equipment identity information). However, Aerrabotu fails to disclose a position location service request. In a similar endeavor, Ikonen discloses a position location service request (see abstract, and figure 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Aerrabotu, and have a position location service request transmitted to emergency service centre as disclosed by Ikonen for the purpose of locating the user in the case the call was accidentally terminated (par. 30).

Regarding claim 13, Aerrabotu discloses the method of claim 12, further comprising the steps of: checking whether said network allows non-emergency voice or position location services, and if not, prompting whether a user wants to exit said callback period (see figure 2 steps 206-208).

Regarding claim 15, Aerrabotu discloses a mobile station for enhancing the probability of successful emergency call completion to a network and successful callback from emergency service centre, the mobile station comprising (see abstract, and par 9 lines 7-11): a communications subsystem, said communications subsystem including a receiver a transmitter and a digital signal processor; a microprocessor communicating with said digital signal processor of said communications subsystem; user input and output means communicating with said microprocessor; memory communicating with said microprocessor; and an emergency service module, said emergency service module communicating with both said digital signal processor and said microprocessor, wherein during an emergency call attempt or callback said emergency service module directs said microprocessor to ignore non-voice requests from said network (see figures 1, 2 steps 206-214, and pars. 10-15). However, Aerrabotu fails to disclose a position location service request. In a similar endeavor, Ikonen discloses a position location service request (see abstract, and figure 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Aerrabotu, and have a position location service request transmitted to emergency service centre as disclosed by Ikonen for the

purpose of locating the user in the case the call was accidentally terminated (par. 30)

Regarding claim 16, the combination of Aerrabotu and Ikonen discloses the mobile station of claim 15, wherein said emergency service module further directs said microprocessor to drop existing network communications during said emergency call attempt (Aerrabotu, see figure 2 step 212).

Regarding claim 17, the combination of Aerrabotu and Ikonen discloses the mobile station of claim 16, wherein said emergency service module further directs said microprocessor to block any user initiated, non-position location service requests from a user during a callback period (Aerrabotu, see figure 2 steps 206-212).

Regarding claim 18, the combination of Aerrabotu and Ikonen discloses the mobile station of claim 15, further comprising a subscriber identity module/removable user identity module interface (Aerrabotu, pars. 9, and 15).

Regarding claim 19, the combination of Aerrabotu and Ikonen discloses the mobile station of claim 18, wherein said mobile station can acquire a network during an emergency call attempt without a subscriber identity module or a removable user identity module present in said subscriber identity module/removable user identity module interface (Aerrabotu, figure 5 step 506, and Ikonen, par. 30 lines 18-23).

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10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aerrabotu in view of Ikonen, and further in view of Kucmerowski.

Regarding claim 14, the combination of Aerrabotu and Ikonen discloses the method of claim 13, however the combination fails to disclose checking whether a callback timer has expired, and if yes entering a regular mode.

Kucmerowski discloses checking whether a callback timer has expired, and if yes entering a regular mode (see figure 4 steps 414-420).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination by checking whether a callback timer has expired, and if yes entering a regular mode as disclosed by Kucmerowski for the purpose of returning to a regular mode of phone operation after a callback timer has expired.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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